

AMENDED IN ASSEMBLY MARCH 17, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1454

Introduced by Assembly Member Ian Calderon

(Principal coauthor: Assembly Member Rodriguez)

(Coauthors: Assembly Members Ammiano, Atkins, Bocanegra, Brown, Buchanan, Dababneh, Dickinson, Lowenthal, Maienschein, Rendon, Salas, Stone, Ting, Waldron, Weber, and Wieckowski)

(Coauthors: Senators Cannella and Gaines)

January 9, 2014

An act to amend Sections 1534, 1569.20, 1569.33, 1597.09, and 1597.55a of the Health and Safety Code, relating to ~~public social services~~ *care facilities*.

LEGISLATIVE COUNSEL'S DIGEST

AB 1454, as amended, Ian Calderon. Care facilities: regulatory visits.

Under existing law, the State Department of Social Services regulates the licensure and operation of community care facilities, residential care facilities for the elderly, child day care centers, and family day care homes. Existing law requires that these facilities be subject to unannounced visits by the department that occur at least once every 5 years. Existing law requires the department to conduct an annual unannounced visit under specified circumstances, including when a license is on probation, and to conduct annual unannounced visits to no less than 20% of the facilities not subject to an evaluation under those specified circumstances.

This bill would instead ~~require these facilities to be~~ *make every facility of the types described above* subject to an annual unannounced visit by the department. The bill would require the department to conduct more

frequent unannounced visits under specified circumstances. The bill would delete the provisions requiring the department to conduct annual unannounced visits to no less than 20% of the facilities and the provisions requiring an unannounced visit at least once every 5 years.

Existing law requires the department to immediately request a fire clearance and notify an applicant to arrange a time for the department to conduct a preclosure survey if an application for initial licensure is complete.

This bill would provide that the preclosure survey is optional at the discretion of the department if the department determines that an application is for licensure of a currently licensed facility, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1534 of the Health and Safety Code is
2 amended to read:
3 1534. (a) (1) Every licensed community care facility shall be
4 subject to an annual unannounced visit by the department. The
5 department shall visit these facilities as often as necessary to ensure
6 the quality of care provided.
7 (A) The department shall conduct more frequent unannounced
8 visits to a facility under any of the following circumstances:
9 (i) When a license is on probation.
10 (ii) When the terms of agreement in a facility compliance plan
11 require more frequent unannounced visits.
12 (iii) When an accusation against a licensee is pending.
13 (iv) When a facility requires more frequent unannounced visits
14 as a condition of receiving federal financial participation.
15 (v) In order to verify that a person who has been ordered out of
16 a facility by the department is no longer at the facility.
17 (B) In order to facilitate direct contact with group home clients,
18 the department may interview children who are clients of group
19 homes at any public agency or private agency at which the client
20 may be found, including, but not limited to, a juvenile hall,
21 recreation or vocational program, or a nonpublic school. The
22 department shall respect the rights of the child while conducting
23 the interview, including informing the child that he or she has the

1 right not to be interviewed and the right to have another adult
2 present during the interview.

3 (2) The department shall notify the community care facility in
4 writing of all deficiencies in its compliance with the provisions of
5 this chapter and the rules and regulations adopted pursuant to this
6 chapter, and shall set a reasonable length of time for compliance
7 by the facility.

8 (3) Reports on the results of each inspection, evaluation, or
9 consultation shall be kept on file in the department, and all
10 inspection reports, consultation reports, lists of deficiencies, and
11 plans of correction shall be open to public inspection.

12 (b) (1) ~~Nothing in this~~ *This section shall does not* limit the
13 authority of the department to inspect or evaluate a licensed foster
14 family agency, a certified family home, or any aspect of a program
15 ~~where in which~~ a licensed community care facility is certifying
16 compliance with licensing requirements.

17 (2) Upon a finding of noncompliance by the department, the
18 department may require a foster family agency to deny or revoke
19 the certificate of approval of a certified family home, or take other
20 action the department may deem necessary for the protection of a
21 child placed with the family home. The family home shall be
22 afforded the due process provided pursuant to this chapter.

23 (3) If the department requires a foster family agency to deny or
24 revoke the certificate of approval, the department shall serve an
25 order of denial or revocation upon the certified or prospective
26 foster parent and foster family agency that shall notify the certified
27 or prospective foster parent of the basis of the department's action
28 and of the certified or prospective foster parent's right to a hearing.

29 (4) Within 15 days after the department serves an order of denial
30 or revocation, the certified or prospective foster parent may file a
31 written appeal of the department's decision with the department.
32 The department's action shall be final if the certified or prospective
33 foster parent does not file a written appeal within 15 days after the
34 department serves the denial or revocation order.

35 (5) The department's order of the denial or revocation of the
36 certificate of approval shall remain in effect until the hearing is
37 completed and the director has made a final determination on the
38 merits.

39 (6) A certified or prospective foster parent who files a written
40 appeal of the department's order with the department pursuant to

1 this section shall, as part of the written request, provide his or her
2 current mailing address. The certified or prospective foster parent
3 shall subsequently notify the department in writing of any change
4 in mailing address, until the hearing process has been completed
5 or terminated.

6 (7) Hearings held pursuant to this section shall be conducted in
7 accordance with Chapter 5 (commencing with Section 11500) of
8 Part 1 of Division 3 of Title 2 of the Government Code. In all
9 proceedings conducted in accordance with this section, the standard
10 of proof shall be by a preponderance of the evidence.

11 (8) The department may institute or continue a disciplinary
12 proceeding against a certified or prospective foster parent upon
13 any ground provided by this section, enter an order denying or
14 revoking the certificate of approval, or otherwise take disciplinary
15 action against the certified or prospective foster parent,
16 notwithstanding any resignation, withdrawal of application,
17 surrender of the certificate of approval, or denial or revocation of
18 the certificate of approval by the foster family agency.

19 (9) A foster family agency's failure to comply with the
20 department's order to deny or revoke the certificate of employment
21 by placing or retaining children in care shall be grounds for
22 disciplining the licensee pursuant to Section 1550.

23 SEC. 2. Section 1569.20 of the Health and Safety Code is
24 amended to read:

25 1569.20. Upon the filing of the application for issuance of an
26 initial license, the department shall, within five working days of
27 the filing, make a determination regarding the completeness of the
28 application. If the application is complete, the department shall
29 immediately request a fire clearance and notify the applicant to
30 arrange a time for the department to conduct a prelicensure survey.
31 If the department determines that an application is for licensure
32 of a currently licensed facility for which there will be no material
33 change to the management or operations of the facility, the
34 prelicensure survey is optional at the discretion of the department.
35 If the application is incomplete, the department shall notify the
36 applicant and request the necessary information. Within 60 days
37 of making a determination that the file is complete, the department
38 shall make a determination whether the application is in compliance
39 with this chapter and the rules and regulations of the department
40 and shall either immediately issue the license or notify the applicant

1 of the deficiencies. The notice shall specify whether the
2 deficiencies constitute denial of the application or whether further
3 corrections for compliance will likely result in approval of the
4 application.

5 SEC. 3. Section 1569.33 of the Health and Safety Code is
6 amended to read:

7 1569.33. (a) Every licensed residential care facility for the
8 elderly shall be subject to an annual unannounced visit by the
9 department. The department shall visit these facilities as often as
10 necessary to ensure the quality of care provided.

11 (b) The department shall conduct more frequent unannounced
12 visits of a facility under any of the following circumstances:

13 (1) When a license is on probation.

14 (2) When the terms of agreement in a facility compliance plan
15 require more frequent unannounced visits.

16 (3) When an accusation against a licensee is pending.

17 (4) When a facility requires more frequent unannounced visits
18 as a condition of receiving federal financial participation.

19 (5) In order to verify that a person who has been ordered out of
20 the facility for the elderly by the department is no longer at the
21 facility.

22 (c) The department shall notify the residential care facility for
23 the elderly in writing of all deficiencies in its compliance with the
24 provisions of this chapter and the rules and regulations adopted
25 pursuant to this chapter, and shall set a reasonable length of time
26 for compliance by the facility.

27 (d) Reports on the results of each inspection, evaluation, or
28 consultation shall be kept on file in the department, and all
29 inspection reports, consultation reports, lists of deficiencies, and
30 plans of correction shall be open to public inspection.

31 (e) As a part of the department's evaluation process, the
32 department shall review the plan of operation, training logs, and
33 marketing materials of any residential care facility for the elderly
34 that advertises or promotes special care, special programming, or
35 a special environment for persons with dementia to monitor
36 compliance with Sections 1569.626 and 1569.627.

37 SEC. 4. Section 1597.09 of the Health and Safety Code is
38 amended to read:

39 1597.09. (a) Each licensed child day care center shall be
40 subject to an annual unannounced visit by the department. The

1 department shall visit these facilities as often as necessary to ensure
2 the quality of care provided.

3 (b) The department shall conduct more frequent unannounced
4 visits to a licensed child day care center under any of the following
5 circumstances:

6 (1) When a license is on probation.

7 (2) When the terms of agreement in a facility compliance plan
8 require more frequent unannounced visits.

9 (3) When an accusation against a licensee is pending.

10 (4) In order to verify that a person who has been ordered out of
11 a child day care center by the department is no longer at the facility.

12 SEC. 5. Section 1597.55a of the Health and Safety Code is
13 amended to read:

14 1597.55a. Every family day care home shall be subject to an
15 annual unannounced visit by the department as provided in this
16 section. The department shall visit these facilities as often as
17 necessary to ensure the quality of care provided.

18 (a) The department shall conduct an announced site visit prior
19 to the initial licensing of the applicant.

20 (b) The department shall conduct more frequent unannounced
21 visits to a facility under any of the following circumstances:

22 (1) When a license is on probation.

23 (2) When the terms of agreement in a facility compliance plan
24 require more frequent unannounced visits.

25 (3) When an accusation against a licensee is pending.

26 (4) In order to verify that a person who has been ordered out of
27 a family day care home by the department is no longer at the
28 facility.

29 (c) A public agency under contract with the department may
30 make spot checks if it does not result in any cost to the state.
31 However, spot checks shall not be required by the department.

32 (d) The department or licensing agency shall make an
33 unannounced site visit on the basis of a complaint and a followup
34 visit as provided in Section 1596.853.

35 (e) An unannounced site visit shall adhere to both of the
36 following conditions:

37 (1) The visit shall take place only during the facility's normal
38 business hours or at any time family day care services are being
39 provided.

1 (2) The inspection of the facility shall be limited to those parts
2 of the facility in which family day care services are provided or
3 to which the children have access.

4 (f) The department shall implement this section during periods
5 that Section 1597.55b is not being implemented in accordance
6 with Section 18285.5 of the Welfare and Institutions Code.

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